

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
(CENTRAL DIVISION)**

MICHAEL DAWE,
Plaintiff

v.

CAPITAL ONE BANK,
Defendant.

C.A. No. 04-40192

STIPULATION OF DISMISSAL WITH PREJUDICE

Now come the plaintiff Michael Dawe (“Dawe”) and defendant Capital One Bank (“Capital One”) and stipulate pursuant to the provisions of Fed. R. Civ. P. 41(a)(1)(ii) that all of the claims that were or could have been asserted by Dawe against Capital One in the above-entitled action be and are hereby dismissed with prejudice, without costs and all rights of appeal waived.

MICHAEL DAWE

CAPITAL ONE BANK

By his attorney,

By its attorney,

/s/ Jason David Fregeau
Jason David Fregeau (BBO# 565657)
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/s/ Bruce D. Berns
Bruce D. Berns (BBO# 551010)
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Date: February 5, 2008